

## EXHIBIT 9

**In the Matter of**

Case No. 18-cv-05775 (ERK)(TAM)

STAR AUTO SALES OF BAYSIDE, INC., et al.

v.

VOYNOW, BAYARD, WHYTE AND COMPANY LLP, et al.

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**Deposition of Randall Franzen**

*Wednesday, February 15, 2023*

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Reporting  
Company

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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STAR AUTO SALES OF BAYSIDE, INC.  
(d/b/a STAR TOYOTA OF BAYSIDE),  
STAR AUTO SALES OF QUEENS, LLC  
(d/b/a STAR SUBARU), STAR HYUNDAI  
LLC (d/b/a STAR HYUNDAI), STAR  
NISSAN, INC. (d/b/a STAR NISSAN),  
METRO CHRYSLER PLYMOUTH INC. (d/b/a  
STAR CHRYSLER JEEP DODGE) STAR AUTO  
SALES OF QUEENS COUNTY LLC (d/b/a  
STAR FIAT) and STAR AUTO SALES OF  
QUEENS VILLAGE LLC (d/b/a STAR  
MITSUBISHI),

Plaintiffs,

-against-

VOYNOW, BAYARD, WHYTE AND COMPANY  
LLP, HUGH WHYTE, and RANDALL  
FRANZEN,

Defendants.

Case No.  
18-cv-05775  
(ERK) (TAM)

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February 15, 2023  
10:37 a.m.

Videotaped Deposition of RANDALL  
FRANZEN, taken by Plaintiffs, held at the  
offices of Milman Labuda Law Group PLLC,  
3000 Marcus Avenue, Suite 3W8, Lake Success,  
New York, before Lisa Hiesiger, a Shorthand  
Reporter and Notary Public within and for the  
State of New York.

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2 A P P E A R A N C E S :  
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4 MILMAN LABUDA LAW GROUP PLLC  
Attorneys for Plaintiffs  
5 3000 Marcus Avenue, Suite 3W8  
Lake Success, New York 11042  
6

7 By: MICHAEL MULÈ, ESQ.  
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9

10 MARSHALL DENNEHEY WARNER COLEMAN & GOGGIN P.C.  
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11 620 Freedom Business Center, Suite 405  
King of Prussia, Pennsylvania 19406  
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13 By: MAUREEN P. FITZGERALD, ESQ.  
mpfitzgerald@mdwccg.com  
14

15 Also Present:

16 JACQUELINE CUTILLO  
17 ROBERT SEIBEL  
18 HUGH WHYTE  
19 MICHAEL KOUFAKIS  
20 STEVE RAMBAM (Via Teleconference)  
21 ANDREW GEDACHT, Videographer  
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2 IT IS HEREBY STIPULATED AND AGREED, by and  
3 among counsel for the respective parties hereto,  
4 that the filing, sealing and certification of the  
5 within deposition shall be and the same are  
6 hereby waived;

7 IT IS FURTHER STIPULATED AND AGREED that  
8 all objections, except as to form of the  
9 question, shall be reserved to the time of the  
10 trial;

11 IT IS FURTHER STIPULATED AND AGREED that  
12 the within deposition may be signed before any  
13 Notary Public with the same force and effect as  
14 if signed and sworn to before the Court.

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THE VIDEOGRAPHER: The date is February 15th, 2023. The time is 10:37 a.m. We are located at the offices of Milman Labuda Law Group PLLC, 3000 Marcus Avenue, Lake Success, New York.

We are taking the deposition of Randall Franzen in the matter of Star Auto Sales of Bayside Inc. et al. versus Voynow, Bayard, Whyte and Company LLP, et al., pending the in U.S. District Court, Eastern District of New York, case number 18-cv-05775(ERK) (TAM).

My name is Andrew Gedacht and I'm the video specialist with the Little Reporting Company. The court reporter is Lisa Hiesiger, also with the little Reporting Company.

At this time I would ask the attorneys to please introduce themselves for the video record. Please state your name, the firm with which you are affiliated and whom you represent, after which the court reporter will swear in the witness.

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2 MR. MULÈ: Good morning, Michael Mulè  
3 from Milman Labuda Law Group PLLC. We are  
4 the attorneys for the plaintiffs, the  
5 various Star entities in this lawsuit.

6 MS. FITZGERALD: Good morning,  
7 Maureen Fitzgerald from Marshall Dennehey  
8 representing all the defendants.

9 R A N D A L L F R A N Z E N, having been first  
10 duly sworn by Lisa Hiesiger, a Notary Public, was  
11 called as a witness and testified as follows:

12 EXAMINATION BY MR. MULÈ:

13 Q. Good morning, Mr. Franzen.

14 A. Good morning.

15 Q. You are represented by counsel,  
16 correct?

17 A. Correct.

18 Q. I will be referring to Voynow,  
19 Bayard, Whyte and Company LLP simply as Voynow in  
20 this proceeding. Do you understand?

21 A. Yes.

22 Q. I'll be referring to the various Star  
23 entities collectively as Star. Is that okay?

24 A. Okay.

25 Q. Same basic instructions, you

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2 approximately 90 percent, that's my best  
3 guesstimate.

4 Q. You used the word "guesstimate."  
5 When you say guesstimate, it puts a little less  
6 certainty in it. Is it an estimate where you  
7 have some basis for that estimate or is it just a  
8 wild guess?

9 A. You're currently asking me a question  
10 over a long period of time, these are massive  
11 companies, we were doing tax work, we had tax  
12 engagements, we had tax audits, we had various  
13 things, I cannot stand here and tell you exactly.  
14 If you gave me a piece of paper and a computer, I  
15 can write down and give you a better guesstimate,  
16 but that's what I'm giving you, a guesstimate,  
17 but that's what I can only guess based upon your  
18 question.

19 Q. As far as interim visits, that was  
20 part of what Voynow did at Star, correct?

21 A. If I understand your question, what  
22 Voynow did at Star was tax engagements. The tax  
23 engagements, interim tax engagements, was what we  
24 called interim, they were between periods for the  
25 year-end. Again large companies, a lot of



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2 income, a lot of tax numbers that had to be  
3 calculated and we had big time estimates we had  
4 to watch.

5 New York City was also under, if you  
6 made X amount of dollars with the city returns,  
7 you had to pay quarterlies as you went. So these  
8 interim, tax interim visits were interim between  
9 interim periods.

10 Q. I don't know if that responds to my  
11 question. You did have these interim visits,  
12 correct?

13 A. We had tax interim visits between  
14 year-ends.

15 Q. So you're calling them tax interim  
16 visits now, other people called them interim  
17 visits, right? You've heard other people call it  
18 interim visits, right?

19 A. Repeat your question.

20 Q. Have you heard other people call  
21 these interim visits, not interim tax visits?

22 A. Yes, I've heard that.

23 Q. So regardless of what you want to  
24 call it, how many times a year did you come to  
25 Star for those types of visits?

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A. We normally came to Star in the interim period as far as anywhere around the June to August/September type time, and again for estimating quarterly taxes, to figure out what was owed. In our tax interim periods, again call them tax interim periods, whatever you want to call them, it's interim between the tax return periods.

Q. So for that interim period, how many times a year approximately would you visit Star?

A. Normally, and again this is my best guess at this point in time, normally we would show up, I said earlier somewhere between June, July, August, September period for that second/third quarter estimate.

Then we would do around November/December, we would be there for the tax planning estimate of time to try to determine again the first quarter, if a first quarter, a January payment was due and what type of tax numbers that had to be paid out at the end of -- before the end of the year.

Q. So you'd come in the June to August/September time period, then you would come

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again in November/December for tax planning.

Would you come any other time of the year?

A. We would show up in January to do the year-end tax work.

Q. So as you sit here today, is your best estimate that on a yearly basis you would come to Star approximately three times a year?

A. Correct.

Q. As far as interim visits, not tax planning, not year-end, approximately how many interim visits would you come to Star, once a year or more than once a year?

A. Again my best guess at this point in time would be we normally would come up once a year between that June/July, whenever the client asked us to come up to that in that period. However, as I stated again, there were other times that we would come up for audits, tax audits, Department of Labor audits, 941 audits, 8300 audits. So there's times that we could be up there an additional period working on an audit, working on what was requested by the client. All related to taxes.

Q. As far as the interim period visit,